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The Chartered Surveyors' Institution

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AT THE ORDINARY GENERAL MEETING

Held at the Chartered Surveyors' Institution on Monday, 18th October, 1943.

Mr. W. C. FARNSWORTH (*President*) in the Chair.

An ADDRESS was given by SIR MALCOLM TRUSTRAM EVE, BT., M.C., T.D., K.C. (Associate), Chairman of the War Damage Commission, on the subject

"IS IT A COST OF WORKS OR A VALUE PAYMENT?"

The Address given by Sir Malcolm Trustram Eve appeared in Part I of Vol. LXXVI of the *Transactions*, which was bound up with the November issue of the *Journal*. The following report sets out a selection of the questions which were addressed to the Chairman at the end of his speech, together with the answers given by him.

Rent Restrictions Acts: Effect on Valuation.

Question: With regard to the effect of the Rent Restrictions Acts, there may be two similar houses in different roads which suffer the same amount of damage. One would sell for £600 with vacant possession and the land is worth £100, the difference being £500. The other could be sold only as an investment, for £500, the land again being

worth £100, the difference being £400. The cost of reinstatement is £425. Of two similar houses, one would attract a cost of works payment and the other a value payment. If there is the bare carcase of a building and it is repaired, surely the old building has been put back and the Acts will still apply ?

Answer : The Second Schedule mentions restrictions immediately after the bomb, and I am advised that in those circumstances it is a question of fact in each case. If the house is no longer in fact a dwelling-house, the Rent Restrictions Act will no longer apply to it. If I am right, the two houses that you mention will be treated alike.

Cost of Works Payments : Instalments.

Question : Paragraph 3 of Form Val. 3 says " The Commission can only pay a cost of works payment if the damage is in fact made good." Who is going to pay as the cost of works goes on where big payments are involved ?

Answer : We have rules about instalments at the moment which I understand are working very well, and any sensible administrative rule which we can devise, with due regard to the fact that we have to watch the public purse, will be applied.

" Making Good " the Damage.

Question : The following is a hypothetical case under Section 13. A large factory, consisting of a number of buildings, all in the same curtilage, was badly damaged by enemy action. On a large part of the site the buildings have been partially repaired and cost of works schemes submitted and dealt with. On another part of the site all the buildings were demolished by enemy action and have been cleared away. They were old-fashioned, multi-storey buildings capable of great improvement by re-development. The lost floor space may be replaced by other factory buildings of more modern type, perhaps single-storey, and different in size and layout from those which previously existed, but they will form part of the same factory. Is the putting up of these new buildings, involving alterations and additions, to be regarded as making good the damage ? If so, presumably further cost of works claims will be in order ; if not, insofar as the damage is not made good, can it be assumed that it may be dealt with as a value payment ?

Answer : We have dealt with that question in our *Practice Note*, No. 23.* It is a question of fact in such case, depending on the answer to the two questions posed in the Note.

Treasury Direction : Housing.

Question : Will Sir Malcolm make a little clearer his reference to excess site value in connection with the new Treasury direction ? I found it difficult to follow just where the excess operated against and where for the claimant.

* War Damage Commission's Practice Notes. First Series, March, 1942. Obtainable from H.M. Stationery Office. Price 6d.

Answer: I do not think it ever operates against; it is entirely pro, though I know that that is a dangerous remark to make. The second of the two valuations is as a site with the damage not made good. It may be that the value of the site for a different purpose, such as shops against houses, may be higher than the value of the site plus the house. This direction says that if we come to the conclusion that the site value is not as high as three-quarters of the value of the site for housing plus the house, you may ignore that. That has obviously the advantage of tending towards a cost of works payment.

"Hybrid" Payments.

Question: Is it possible to have a cost of works payment and a value payment in respect of the same unit?

Answer: The answer is yes, you can get what in the office we call a "hybrid payment" under Section 13, where there is provision for that. There are many "ifs" and "buts," but the straightforward answer is that there is that power.

Value Payments or Cost of Works.

Question: A large business store has been entirely destroyed. Shall we have to accept the value payment as at 31st March, 1939, when the cost of reinstating the building will be some thousands of pounds more, because of the great rise in costs?

Answer: I am glad that you mention that, because that is a very common question. It does not follow that because a property is totally destroyed physically it is therefore a total loss, and the first question is, is it a total loss under the formula? If it is, then the answer to your question is yes, you will get the value payment and not the cost of works payment; otherwise you will get the whole cost of mending it. To say that it is physically destroyed is not enough; you must go through these three valuations to see whether it is a total loss and all of them are at March, 1939, levels.

Preliminary Classification Appeals: Figures.

Question: Sir Malcolm says that where objection is taken to the preliminary determination under Val. 1, he will expect the technical adviser of the claimant to submit figures in placing his objection before the Commission. Can these figures be exchanged?

Answer: I am not sure that I can say yes to that in detail, but I can say yes in principle. We give you the provisional decision, and we next expect figures from you; but we will gladly undertake that if you wish to appeal against our figures, the figures shall be given to you so that you can appeal against them.

Form C.3.

Question: Where a C.3 form has been received, and no reply made to the Commission, will the Commission go on to issue the Val. 1 or the Val. 3, as the case may be?

Answer : Certainly. If a C.3 form has been received by the applicant and not returned by him, he will not be prejudiced. We have gone out of our way to see that claimants have not been prejudiced by having accepted or acted on one of these documents.

Late Claims.

Question : In many cases no action has been taken on the C.3 form, although it has been stated that the claim must be made in six months. People have come to me with these things after a year ; are they out of court ?

Answer : Nobody is out of court at all. People were asked to return the C.3 in six months, but there is no statutory time limit, and no-one is prejudiced by not sending them back. It is far better at the moment that they should not, until they have received from us the Val. 1 or the Val. 3.

Statutory Restrictions.

Question : I understand Sir Malcolm to say that cost of works payments can be made only for work done on the site of the actual damage. Does that mean that in a case where, but for town planning requirements, the payment would be on a cost of works basis, that is automatically converted to a value payment because the building cannot be rebuilt on the same site ?

Answer : Yes. I would draw attention to the second sentence in paragraph 3 of Val. 3.